

ORDINANCE NUMBER O- 21507 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 29 2022

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO, AT THE MUNICIPAL SPECIAL ELECTION, CONSOLIDATED WITH THE CALIFORNIA STATE GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2022, ONE MEASURE AMENDING THE SAN DIEGO MUNICIPAL CODE BY AMENDING CHAPTER 6, ARTICLE 6, DIVISION 1, SECTION 66.0127 RELATING TO SOLID WASTE MANAGEMENT SERVICES.

WHEREAS, by San Diego Ordinance No. O- 21506, introduced and adopted on JUL 25, 2022, the Council of the City of San Diego (Council) called a Municipal Special Election to be consolidated with the California State General Election to be held November 8, 2022, for the purpose of submitting to the qualified voters of the City of San Diego (City) one or more ballot measures; and

WHEREAS, the Council now desires to submit to the voters at the Municipal Special Election one measure amending the San Diego Municipal Code (Municipal Code) by amending Chapter 6, Article 6, Division 1, Section 66.0127, relating to solid waste management services; and

WHEREAS, by majority vote in 1919, City voters enacted the People's Ordinance (Ordinance No. O-7691) to provide for refuse collection, transportation, and disposal services by the City; and

WHEREAS, subsequent amendments to the People's Ordinance were enacted by majority vote of City voters in 1981 and 1986; and

WHEREAS, the 1986 amendment is codified at Municipal Code section 66.0127 and states that no City fee shall be imposed or charged for refuse collection, transportation, and disposal services provided by the City; and

WHEREAS, the Council now desires to propose amendments to Municipal Code section 66.0127 to City voters that would allow the City to charge a cost-recovery fee, as allowed by law, for solid waste management services provided by the City, including the collection, transport, transfer, disposal, and recycling of solid waste; and

WHEREAS, the Municipal Code amendments were proposed by Council President Sean Elo-Rivera and Councilmember Joe LaCava as part of the Council Policy 000-21 process, were heard by the Council's Rules Committee on March 16, 2022, and June 8, 2022, and are presented in this Ordinance for placement on the November 8, 2022, Municipal Special Election ballot;

NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. One measure amending the San Diego Municipal Code by amending Chapter 6, Article 6, Division 1, Section 66.0127, related to solid waste management services, is hereby submitted to the qualified voters at the Municipal Special Election to be held on November 8, 2022, and consolidated with the California State General Election to be held on the same date, with the measure to read as follows:

MEASURE

ARTICLE 6: Collection, Transportation and Disposal of Refuse and Solid Waste

Division 1: Refuse

§66.0127 Refuse Collection Solid Waste Management Services

(a) Purpose. Solid waste management, including the collection and subsequent transfer, transportation, and recycling or disposal of solid waste, affects the health, safety, welfare, and quality of life of City residents, and affects the local environment. The purpose of section 66.0127 is to set forth the authority of the Council and the City Manager with respect to solid waste management services provided in the City. The purpose of section 66.0127 is also to set forth the policy governing solid waste management services provided by the City. As used in this People's Ordinance:

(1) — “Refuse” means waste material of any nature or description generated within the City limits, excluding hazardous or toxic chemicals, wastes, materials or substances as defined now or hereafter by federal or state law or regulation;

(2) — “Residential Refuse” means refuse, as defined herein, normally generated from a Residential Facility and which is placed at the curb line of public streets at designated times in approved containers;

(3) — “Nonresidential Refuse” means all refuse that is not Residential Refuse, as defined herein;

(4) — “Residential Facility” means a single family or multi-family residential structure used and occupied for Nontransient Occupancy;

(5) — “Nontransient Occupancy” means occupancy through ownership, lease or rental for periods of one month or more.

(6) — “Small business enterprise” means a commercial establishment providing sales and services to the public and licensed or taxed by the City.

(b) Definitions. For purposes of section 66.0127, defined terms appear in italics. The following definitions apply to section 66.0127:

City has the same meaning as in San Diego Municipal Code section 66.0102.

City forces means City of San Diego employees. City forces does not include City contractors or City franchisees.

City Manager has the same meaning as in San Diego Municipal Code section 66.0102.

Collect or Collection means to take physical possession of and transport solid waste.

Council has the same meaning as in San Diego Municipal Code section 66.0102.

Disposal or Dispose means the final deposit or placement of any solid waste at a permitted landfill or other permitted solid waste disposal facility. Disposal does not include the deposit or placement of solid waste intended for recycling.

Ineligible property means all real property that is not residential property. Ineligible property includes commercial, governmental, institutional, industrial or non-profit facilities, hotels, motels, inns, gated communities, and mixed-use facilities.

Multi-family residential property means two or more residences on a single lot.

Recycling means the process of separating solid waste for collection, and collecting, treating, and reconstituting solid waste that would otherwise be discarded without receiving compensation, and returning it to the economy in the form of raw materials for new, reused, or reconstituted products. The collection, transfer, transportation, or disposal of solid waste not intended for, or capable of reuse, is not recycling.

Residential property means a single-family residential property or a multi-family residential property, with up to four residences on a single lot, that meets City requirements for collection by City forces.

Residential solid waste means solid waste, of the type and quantity normally generated by a residential property, that is placed at the designated collection point at the curb line of a City public street or City public alley in a City-approved curbside collection container on the designated collection day.

Single-family residential property means one residence on a single lot.

Solid waste means putrescible and nonputrescible solid and semi-solid waste including garbage, trash, refuse, rubbish, construction and demolition waste, metallic discards, organic waste, animal solid or semi-solid waste, and other solid or semi-solid waste. Solid waste does not include hazardous waste, hazardous substances, or medical waste.

Solid waste management services means services such as collection, transfer, transportation, recycling, and disposal of solid waste. Solid waste

management services includes providing City-approved curbside collection containers.

- (bc) General. No person shall ~~collect~~collect, ~~transfer,~~ transfer, transport, recycle or ~~dispose~~dispose of any refuse~~solid waste~~ solid waste except as provided herein in section 66.0127.
- (ed) Council Authority. The ~~City Council~~Council shall by ordinance regulate and control the ~~collection~~collection, ~~transfer,~~ transfer, transportation, recycling, and ~~disposal~~ disposal of all refuse~~solid waste~~ solid waste in the City provided that:
- (1) Services. ~~Residential Refuse shall be collected, transported and disposed of by the City at least once each week, City forces shall collect and transport residential solid waste for transfer, transport, and recycling or disposal and there shall be no City fee imposed or charged for this service by City forces; the City may charge a cost-recovery fee, as allowed by law, for all solid waste management services.~~
Residential Refuse shall be collected, transported and disposed of by the City at least once each week, City forces shall collect and transport residential solid waste for transfer, transport, and recycling or disposal and there shall be no City fee imposed or charged for this service by City forces; the City may charge a cost-recovery fee, as allowed by law, for all solid waste management services.
 - (2) Exclusions. The City shall not ~~collect~~collect Nonresidential Refuse solid waste from ineligible property, except that:
 - (A) ~~Nonresidential Refuse from a small business enterprise may be collected by City Forces if authorized by the City Council and limited to once a week service At least once each week, City forces may, at the City Manager's discretion, collect residential solid waste from residential property used for nonresidential purposes if such residential property generates solid waste in an amount no greater than one hundred fifty percent (150%) percent of the refuse solid waste generated by an average City City residential property, residential dwelling unit. There shall be no City fee imposed or charged for this service by City forces; The City may transport, transfer, and recycle or dispose of such solid waste; and the City may charge a cost-recovery fee, as allowed by law, for solid waste management services provided to that residential property;~~
Nonresidential Refuse from a small business enterprise may be collected by City Forces if authorized by the City Council and limited to once a week service At least once each week, City forces may, at the City Manager's discretion, collect residential solid waste from residential property used for nonresidential purposes if such residential property generates solid waste in an amount no greater than one hundred fifty percent (150%) percent of the refuse solid waste generated by an average City City residential property, residential dwelling unit. There shall be no City fee imposed or charged for this service by City forces; The City may transport, transfer, and recycle or dispose of such solid waste; and the City may charge a cost-recovery fee, as allowed by law, for solid waste management services provided to that residential property;
 - (B) The City may provide solid waste management services, through City forces or outside contractors, to City facilities, parks, beaches, and other property owned by the City or leased by the City from others.
 - (3) Private Property. The ~~City~~City shall not enter upon any private property or any property of another public agency to ~~collect any refuse~~ provide solid waste management services, except in the

case of a public emergency or to provide City-approved assistance under the Americans with Disabilities Act to a resident or pursuant to a hold harmless agreement in effect as of the date of adoption of this ordinance; in which case the City may do so at the City Manager's discretion.

~~(4) Fees established by ordinance of the City Council for disposal of Nonresidential Refuse shall not exceed the full ascertainable cost to the City for such disposal.~~

~~(b) (c) City Manager Authority. Pursuant to the ordinance duly adopted by the City Council Council, the City Manager City Manager may then duly promulgate such is authorized to establish rules, and regulations, and requirements as are appropriate to provide for the collection, transportation and disposal of refuse solid waste management services within the City and by the City.~~

Amendments with deletions in ~~strike through~~ and additions double underlined.

END OF MEASURE

Section 2. The measure shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this Ordinance.

Section 3. On the ballot to be used at this Municipal Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

MEASURE ___ AMENDS SAN DIEGO MUNICIPAL CODE SECTION 66.0127 RELATED TO SOLID WASTE MANAGEMENT SERVICES: Shall the San Diego Municipal Code be amended so that all City residents receive comparable trash, recycling, and other solid waste management services, by allowing the City to recover its cost of providing these services to eligible residential properties, which could allow the City to provide additional services, such as weekly recycling, bulky item pickup, and curbside container replacement and delivery, at no extra charge?	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word “Yes” shall be counted in favor of the adoption of this measure. An appropriate mark placed in the voting square after the word “No” shall be counted against the adoption of the measure.

Section 5. Passage of this measure requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.

Section 6. The City Clerk shall cause this Ordinance or a digest of this Ordinance to be published once in the official newspaper following this Ordinance’s adoption by the Council.

Section 7. In compliance with San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The City Clerk shall post notice of the specific dates that the examination period will run.

Section 8. A full reading of this Ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the Council and the public prior to the day of its passage.

Section 9. This Ordinance may be passed by the Council on the date of introduction pursuant to Charter section 275(c) and shall take effect upon final passage pursuant to San Diego Charter sections 295(a) and 295(d).

APPROVED: MARA W. ELLIOTT, City Attorney

By Nicole M. Denow
Nicole M. Denow
Deputy City Attorney

NMD:jdf
06/27/2022
07/25/2022 COR. COPY
Or. Dept: Rules Committee
Doc. No. 3035210_3

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUL 25 2022.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(See attached memo and signature page.)

Office of
The City Attorney
City of San Diego

MEMORANDUM

DATE: August 31, 2022
TO: City Clerk
FROM: Nicole M. Denow, Deputy City Attorney
SUBJECT: Item 601A, July 25, 2022

Please see the attached Ordinance O-2023-20 COR. COPY 2, changes were made page 5, 2(A) and page 6, (e) removed underline from Manager.

- (2) Exclusions. The *City* shall not ~~collect~~collect Nonresidential Refuse solid waste from ineligible property, except that:
- (A) Nonresidential Refuse from a small business enterprise may be collected by City Forces if authorized by the City Council and limited to once a week service. At least once each week, City forces may, at the City Manager's discretion, collect residential solid waste from residential property used for nonresidential purposes if such residential property generates solid waste in an amount no greater than one-hundred fifty percent (150%) percent of the refuse solid waste generated by an average City residential property, residential dwelling unit. There shall be no City fee imposed or charged for this service by City forces; The City may transport, transfer, and recycle or dispose of such solid waste; and the City may charge a cost-recovery fee, as allowed by law, for solid waste management services provided to that residential property;
- (b) (e) City Manager Authority. Pursuant to the ordinance duly adopted by the City Council ~~Council~~, the City Manager City Manager may then ~~duly promulgate such is~~ authorized to establish rules, and regulations, and requirements as are appropriate to provide for the collection, transportation and disposal of refuse solid waste management services within the City and by the City.

NMD:jdf
Enclosure
cc: Gilbert Sanchez, Associate Management Analyst

Section 9. This Ordinance may be passed by the Council on the date of introduction pursuant to Charter section 275(c) and shall take effect upon final passage pursuant to San Diego Charter sections 295(a) and 295(d).

APPROVED: MARA W. ELLIOTT, City Attorney

By: /s/ Nicole M. Denow
Nicole M. Denow
Deputy City Attorney

NMD: jdf
06/27/2022
07/25/2022 COR. COPY
Or. Dept: Rules Committee
Doc. No. 3035210

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUL 25 2022.

ELIZABETH S. MALAND
City Clerk

By Carrie Patterson
Deputy City Clerk

Approved: 7/29/22
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on JUL 25 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 29 2022.

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on JUL 25 2022, said ordinance being of the kind and character authorized for passage on its introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21507